

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2372

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 9-952, Arizona Revised Statutes, is amended to
3 read:

4 9-952. Disposition of fire insurance premium tax; definition

5 A. Not later than July 1, the state treasurer, using the information
6 provided by the cities and towns and legally organized fire districts, the
7 state fire marshal, the department of insurance and the department of revenue
8 as provided in section 9-951, subsection B, shall distribute the fire
9 insurance premium tax to the respective incorporated cities and towns and
10 legally organized fire districts in proportion to the full cash value of the
11 real property and improvements in each incorporated city and town and legally
12 organized fire district ~~which~~ THAT procures the services of a private fire
13 company and in each area served by a department or legally organized fire
14 district, A MUNICIPALITY OR OTHER LEGALLY ORGANIZED FIRE DISTRICT. The
15 warrant issued by the state treasurer to incorporated cities and towns and
16 legally organized fire districts having organized fire departments and to
17 legally organized fire districts shall be identified as "fire fighters'
18 relief and pension fund". The warrant issued by the state treasurer to an
19 incorporated city or town or legally organized fire district procuring the
20 services of a private fire company, ~~which~~ A MUNICIPALITY OR OTHER LEGALLY
21 ORGANIZED FIRE DISTRICT THAT has a pension plan covering fire fighting
22 personnel shall be identified for deposit in the municipality's general fund
23 or, in the case of a fire district, in the fire fighters' relief and pension
24 fund.

25 B. A FIRE DISTRICT FORMED PURSUANT TO TITLE 48, CHAPTER 5, ARTICLE 3
26 SHALL TRANSFER ALL MONIES RECEIVED FROM THE FIRE INSURANCE PREMIUM TAX
27 PURSUANT TO THIS SECTION TO THE FIRE DISTRICT'S FIRE SERVICE PROVIDER.

1 C. FOR THE PURPOSES OF THIS SECTION, "LEGALLY ORGANIZED FIRE DISTRICT"
2 INCLUDES A DISTRICT FORMED PURSUANT TO TITLE 48, CHAPTER 5, ARTICLE 3.

3 Sec. 2. Section 48-806, Arizona Revised Statutes, is amended to read:

4 48-806. Bond election; issuance and sale of bonds

5 A. ~~Except for a district formed pursuant to section 48-851,~~ The
6 district board or the elected chief and secretary-treasurer may order an
7 election by the qualified electors of the district to be held pursuant to
8 title 16, chapter 2, article 1 to determine whether bonds shall be issued on
9 behalf of the district. The order shall specify the maximum principal amount
10 of bonds to be issued, the maximum number of years bonds of any issue or
11 series may run from their date not exceeding thirty years, the purpose for
12 which the bonds are to be issued, the maximum rate of interest which the
13 bonds are to bear, the date and hours of the election and the location of the
14 polling places. Copies of the order shall be posted in three public places
15 within the district not less than twenty days prior to the date of the
16 election, and if a newspaper is published within the county having a general
17 circulation within the district, the order shall be published in the
18 newspaper not less than once a week during each of the three calendar weeks
19 preceding the calendar week of the election.

20 B. EXCEPT AS PROVIDED IN SECTION 48-853, SUBSECTION B, PARAGRAPH 9, a
21 district board formed pursuant to section 48-851 shall not order an election
22 for or issue bonds under this section.

23 C. Instead of publishing the notice described in subsection A of this
24 section, the board of directors may mail a notice of election to each
25 household containing a qualified elector of the district. The notice shall
26 contain the same information described in subsection A of this section except
27 that the notice shall not contain the location of all the polling places for
28 that election. The notice shall contain the location of the polling place
29 for that household's qualified electors. The notice shall be mailed at least
30 thirty-five days before the election.

1 D. At the election the ballot shall contain the phrases "for the
2 bonds" and "against the bonds". There shall be placed a square or other
3 designated marking space in the same manner as used for candidates on
4 ballots. The voter shall indicate a vote "for the bonds" or "against the
5 bonds". No other question, word or figure need be printed on the ballot.
6 The ballot need not be any particular size, nor need sample ballots be
7 printed, posted or distributed but ballots shall comply with standards
8 otherwise provided by law including requirements for electronic voting, if
9 applicable.

10 E. If a majority of the qualified electors of the district voting at
11 the election approves the issuance of bonds, the district board or the
12 elected chief and secretary-treasurer, as appropriate, may issue bonds in an
13 aggregate principal amount not exceeding the lesser of six per cent of the
14 value of the taxable property in the district as shown on the last property
15 tax assessment roll before issuing the bonds or the maximum amount specified
16 in the election order.

17 F. Bonds may be in such denominations, may be in registered or bearer
18 form either as to principal or interest, or both, may mature at such times
19 not exceeding the maximum maturity specified in the election order and may be
20 subject to redemption prior to maturity, all as specified by the district
21 board or elected chief and secretary-treasurer, as appropriate, as provided
22 in subsection E of this section. The district may engage the services of a
23 depository to administer a book entry system for the bonds. The costs and
24 expenses of such depository and any registrar or paying agent for the bonds
25 shall be deemed to be interest expenses that may also be paid from the tax
26 levy made pursuant to subsection I of this section.

27 G. Bonds shall be executed by the manual or facsimile signatures of
28 the chairman and clerk of the district board or elected chief and
29 secretary-treasurer of the district. Coupons attached to the bonds shall
30 bear the facsimile signature of the chairman of the district board or the
31 elected chief of the district, as appropriate.

1 public hearing at a meeting called by the board or fire chief to adopt the
2 budget. Copies of the budget shall also be available to members of the
3 public on written request to the district. Following the public hearing, the
4 district board or appointed chief shall adopt a budget.

5 3. Require probationary employees in a paid sworn firefighter
6 position, a reserve firefighter position or a volunteer firefighter position
7 of a provider of fire protection and emergency medical services to submit a
8 full set of fingerprints to the fire district. The fire district shall
9 submit the fingerprints to the department of public safety for the purpose of
10 obtaining a state and federal criminal records check pursuant to section
11 41-1750 and Public Law 92-544. The department of public safety may exchange
12 this fingerprint data with the federal bureau of investigation. This
13 paragraph does not apply to personnel that are provided to a fire district by
14 any public or private entity that provides fire protection and emergency
15 medical services to the fire district and that has already fully complied
16 with fingerprint submittal requirements as otherwise provided by law.

17 4. Appoint the fire chief of the fire service provider selected
18 pursuant to paragraph 8 of this subsection, either public or private, as the
19 fire chief for the district.

20 5. Adopt the fire code of the municipality whose municipal planning
21 area includes the district except that the fire district's authority to
22 conduct inspections shall apply only to commercial and industrial properties
23 and shall not apply to residential properties.

24 6. Keep three copies of the applicable fire code, amendments and
25 revisions on file for public inspection.

26 7. Notify the county board of supervisors of the cost of providing
27 fire protection service and emergency medical service for each household or
28 other structure in the district if the district provides service pursuant to
29 paragraph 8, subdivision (a) or (b) of this subsection.

30 8. Act within sixty days after the formation of the district to do any
31 of the following:

1 (a) Enter into an intergovernmental agreement with a municipal
2 provider for fire protection services for the district. A municipal provider
3 seeking to enter into ~~AN~~ agreement with the district shall make a formal
4 expression of intent to enter into an agreement with the district within
5 twenty-one days of district formation.

6 (b) Issue a request for proposals for nonmunicipal private providers
7 of fire protection services for the district. A request for proposals may be
8 issued only if no municipal providers of fire protection services have made
9 an expression of intent seeking to enter into a fire protection agreement
10 with the district. Notwithstanding any other law, municipal annexation shall
11 not be undertaken during the term of any contract entered into between the
12 district and a private fire service provider, except that in the one hundred
13 eighty day period before the end of the contract, the municipality shall
14 notify the residents of the opportunity to annex into the municipality. A
15 resident shall notify the district and the municipality within ninety days
16 before the end of the contract that the resident is annexing into the
17 municipality and shall complete the annexation within ten days after the
18 completion of the contract. If no district residents notify the municipality
19 that the resident is annexing, the district may renew the contract
20 automatically. If a resident proposes to annex into the municipality, the
21 district shall issue a request for proposals again as prescribed in this
22 subdivision.

23 (c) Before applying this subdivision, ~~the district shall~~ request an
24 independent review by the county attorney of the negotiations, if any, that
25 were conducted as prescribed in subdivision (a) of this paragraph and the
26 request for proposals and resulting bids. After the independent review, the
27 county attorney shall certify whether the negotiations and proposals were
28 based on commercially reasonable assumptions. If the county attorney
29 certifies that any one or more of the provisions are not commercially
30 reasonable, the district and the other party to the negotiations have ten
31 days to cure and continue negotiations before resubmitting information on the
32 negotiations and proposals to the county attorney for certification.

1 Notwithstanding any other law, the county attorney shall have access to
2 sealed bids for purposes of this subdivision. The county attorney shall
3 review and issue a certification pursuant to this subdivision within thirty
4 days after the information and documents regarding negotiations and proposals
5 are submitted to the county attorney. If a fire district does not enter into
6 an intergovernmental agreement pursuant to subdivision (a) of this paragraph
7 or enter into a contract pursuant to subdivision (b) of this paragraph, the
8 surrounding municipality shall provide fire protection and emergency medical
9 services except for services regulated pursuant to title 36, chapter 21.1 in
10 the district immediately on request by the district, following final
11 certification by the county attorney. The municipality shall be compensated
12 by the district as follows:

13 (i) A three person board shall set the secondary property tax rate for
14 the district. The district shall appoint one person to the board, the
15 surrounding municipality shall appoint one person to the board, and the two
16 appointees shall agree on a third person for the board. If the two
17 appointees cannot agree on a third appointee within five days after the two
18 persons are appointed, the county board of supervisors shall appoint the
19 third person to the board.

20 (ii) The three person board shall meet and set the tax rate within
21 thirty days after the third person is appointed to the board.

22 (iii) The district shall levy the tax at the rate as determined by the
23 three person board and the tax shall be collected as other property taxes are
24 collected. THE COUNTY SHALL TRANSFER ALL MONIES FROM THE PROPERTY TAX LEVY
25 TO THE DISTRICT. On receipt of monies from the property tax levied, the
26 district shall reimburse the county for the costs associated with the
27 formation of the district, including administrative expenses, and shall
28 ~~transfer the remaining monies to~~ PAY the surrounding municipality FOR THE
29 ANNUAL COST OF FIRE SERVICES AS DETERMINED PURSUANT TO THIS PARAGRAPH AS THE
30 MONIES FROM THE TAX LEVY ARE RECEIVED.

31 9. Require that any intergovernmental agreement or contract between
32 the district and a provider of fire protection services ~~to~~ include:

1 (a) A term of duration between three and five years.

2 (b) A provision setting forth the cost of service and performance
3 criteria.

4 (c) An acknowledgment of the right of the municipality to determine
5 the location of future infrastructure if the district is in the
6 municipality's planning area at the time of the execution of the contract.

7 10. If necessary, issue a request for proposals for providers of
8 emergency medical services and enter into an intergovernmental agreement or
9 contract with a provider of emergency medical services except for those
10 services regulated by title 36, chapter 21.1.

11 11. Assess and levy a secondary property tax to pay for the costs of
12 the fire protection service or emergency medical service except for those
13 services regulated by title 36, chapter 21.1. A secondary property tax
14 assessed pursuant to this section is not subject to the levy limitation
15 prescribed by section 48-807.

16 12. EXCEPT FOR CLAIMS ASSOCIATED WITH FIRE PROTECTION PERSONNEL,
17 INCLUDING WORKER'S COMPENSATION CLAIMS AND CLAIMS ARISING OUT OF VEHICLE
18 OPERATIONS, defend, indemnify and hold harmless a municipal provider or any
19 other provider of fire protection from and against any claims or expenses to
20 which it may be subjected by reason of injury or death of any person or loss
21 or damage to any property directly attributable to the provision of the
22 services unless the services were provided in a grossly negligent manner.
23 The fire district shall secure insurance sufficient to cover liability
24 exposure.

25 B. A fire district formed pursuant to this article, through its board,
26 may:

27 1. Contract for administrative staff services, if any, deemed
28 necessary or appropriate to carry out its powers and duties, but a member of
29 a district board, ~~shall~~ shall not be an employee of the district.

30 2. Retain a certified public accountant to perform an annual audit of
31 district books.

32 3. Retain private legal counsel.

1 4. Sue and be sued.

2 5. Accept gifts, contributions, bequests and grants and comply with
3 any requirements of such gifts, contributions, bequests and grants not
4 inconsistent with this article.

5 6. Appropriate and expend annually such monies as are necessary for
6 the purpose of fire districts belonging to and paying dues in the Arizona
7 fire district association and other professional affiliations or entities.

8 7. RECEIVE UP TO TWENTY-FIVE THOUSAND DOLLARS IN LOANS FROM EXISTING
9 COUNTY ISLAND FIRE DISTRICTS, OTHER FIRE DISTRICTS, ANY AGENCY OF THE COUNTY
10 UNDER THE AUTHORITY OF THE COUNTY BOARD OF SUPERVISORS OR ANY OTHER SOURCE TO
11 PROVIDE INITIAL FUNDING FOR THE COUNTY ISLAND FIRE DISTRICT UNTIL REVENUES
12 MAY BE COLLECTED AS OTHERWISE PROVIDED BY LAW.

13 8. NEGOTIATE A FIRE HYDRANT INSTALLATION PLAN WITH THE MUNICIPAL
14 PROVIDER. ONLY INFRASTRUCTURE THAT IS REASONABLY RELATED TO THE OPERATION
15 AND MAINTENANCE OF FIRE HYDRANTS MAY BE INCLUDED IN THE PLAN. A FIRE HYDRANT
16 INSTALLATION PLAN SHALL INCLUDE:

17 (a) THE LOCATION OF NEW FIRE HYDRANTS TO BE CONSTRUCTED IN THE
18 DISTRICT'S JURISDICTION. FIRE HYDRANTS THAT ARE INSTALLED PURSUANT TO A FIRE
19 HYDRANT INSTALLATION PLAN SHALL BE SITED IN COMPLIANCE WITH SUBSECTION A,
20 PARAGRAPH 9, SUBDIVISION (C) OF THIS SECTION.

21 (b) THE COST AND CONSTRUCTION SCHEDULE OF THE PROPOSED FIRE HYDRANTS.

22 (c) A DESCRIPTION OF THE TERMS AND CONDITIONS OF ANY DEBT TO BE
23 INCURRED TO FINANCE THE INSTALLATION OF FIRE HYDRANTS.

24 9. ISSUE BONDS PURSUANT TO SECTION 48-806 FOR THE PURPOSES OF
25 IMPLEMENTING A FIRE HYDRANT INSTALLATION PLAN AS PRESCRIBED IN PARAGRAPH 8 OF
26 THIS SUBSECTION.

27 C. The county attorney may advise and represent the district when in
28 the county attorney's judgment such advice and representation are appropriate
29 and not in conflict with the county attorney's duties under section 11-532.
30 If the county attorney is unable to advise and represent the district due to
31 a conflict of interest, the district may retain private legal counsel or may
32 request the attorney general to represent it, or both.

1 D. The chairperson and clerk of the district board or their respective
2 designees, as applicable, shall draw warrants on the county treasurer for
3 money required to operate the district in accordance with the budget and, as
4 so drawn, the warrants shall be sufficient to authorize the county treasurer
5 to pay from the fire district fund.

6 E. The district shall not incur any debt or liability in excess of
7 taxes levied and to be collected and the money actually available and
8 unencumbered at the time in the fund, except as provided **IN SECTION 48-806**
9 **FOR THE PURPOSE OF IMPLEMENTING A FIRE HYDRANT INSTALLATION PLAN AND EXCEPT**
10 **AS PROVIDED** in section 48-807.

11 F. If a district formed under section 48-851 agrees to provide fire
12 and emergency medical services in a county island where a private provider of
13 fire or emergency services already has facilities or provides service, the
14 district and the private provider shall enter into an agreement covering the
15 roles and relationships regarding mutual aid or backup and any services for
16 which the district wishes to contract and any reimbursement or billing and
17 collection practices. The agreement shall be executed before the district
18 begins providing service in the county island. A district may enter into an
19 intergovernmental agreement with appropriate regional automatic aid dispatch
20 systems.

21 **G. THE DISTRICT'S RECORDS ARE SUBJECT TO TITLE 39, CHAPTER 1 AND THE**
22 **CLERK OF THE COUNTY BOARD OF SUPERVISORS SHALL BE THE CUSTODIAN OF THE**
23 **DISTRICT'S PUBLIC RECORDS UNLESS THE DISTRICT DESIGNATES AN EMPLOYEE OF THE**
24 **DISTRICT TO ACT AS CUSTODIAN.**

25 **H. ANNEXATION OF DISTRICT PROPERTY AFTER FORMATION OF THE DISTRICT**
26 **DOES NOT TERMINATE ANY TAX OR OTHER ASSESSMENT AGAINST THE REAL PROPERTY IN**
27 **THE DISTRICT.**

28 ~~G.~~ I. This section does not require a fire district or a city or town
29 to provide fire protection or emergency medical services to an area of the
30 county that is receiving services from a private provider, except as provided
31 by a mutual aid or backup agreement pursuant to this section.

1 ~~H.~~ J. For the purposes of this article, "fire service" and "fire
2 protection" include fire prevention, emergency medical services, inspection
3 of commercial or industrial property where a known code violation exists and
4 enforcement."
5 Amend title to conform

and, as so amended, it do pass

RICHARD A. MURPHY
Chairman

2372-se-wm
3/11/09
H:jjb

2372rm.doc
03/05/2009
9:47 AM
C: myr